IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO. 7234 OF 2005
IN
CRIMINAL APPEAL NO. 647 OF 2000

Sharif Khan Rashid Khan. .. Applicant
(Orig. Respdt. No.2)

Versus

The Directorate of Revenue
Intelligence, and another. .. ..Respondents

Shri. Anil Lalla, i/b Lalla & Lalla, for the Applicant.

Shri. A. H. Palekar, Public Prosecutor, for the Union of India.

Shri. S. R. Borulkar, Public Prosecutor, for the State.

CORAM : S. B. MHASE AND
S. R. SATHE, JJ.
DATE : OCTOBER 28, 2005

P. C.

. Heard learned Counsel for the Applicant, the learned Public Prosecutor for the Union of India and the learned Public Prosecutor for the State of Maharashtra.

2. Earlier, Criminal Applications Nos. 182 of 2001, 4155 of 2003, and Criminal Application No. 3780 of 2004 seeking bail were made. All those applications have been rejected successively by this Court. It further appears that two or three other applications, which were made for bail, have been withdrawn at the time of the hearing and thus the applicant is in Jail pending the appeal. He was earlier convicted in NDPS

Case No. 280 of 1992 for a period of ten years. Shri. Lalla, learned Counsel for the Appliacant, reports that that period of ten years is over and thus he has undergone the conviction for ten years. In the present matter, which arises out of the acquittal of the applicant, the applicant is in jail in an action under section 390 of the Code of Criminal Procedure, 1973. It appears that the bail was rejected under section 390 of the Code of Criminal Procedure since the applicant was to undergo the conviction in the Special Case No. 280 of 1992.

3. In the present application, the ground made out is that the applicant has suffered heart attack and is admitted in the Sassoon Hospital, Pune. Shri. Borulkar, the learned P.P., who appears for the State of Maharashtra, reports that it is true that the applicant has suffered a massive heart attack, and as per the doctor’s certificate, the diagnosis is Myocardial Infarction. He submitted, however, that initially the applicant was in the Intensive Care Unit, but now the patient is stable and has been transferred to the general ward. Thus what we find is that the ground made out in the application is true and genuine. Shri. Lalla, learned Counsel for the Applicant, submits that if temporary bail is granted, better

treatment can be given to save his life. We asked learned Counsel for the Union of India and the learned P. P. for the State of Maharashtra as to what they have to say. They have stated that they leave the matter to the Court in the abovereferred circumstances. Thus, we find that the applicant has suffered a massive heart attack and he is claiming a temporary bail for better treatment in a private hospital.

4. Therefore, on humanitarian ground and to avail of a better treatment for the survival of the applicant, we are inclined to grant temporary bail on certain conditions for a period of two months from the date of release. The temporary bail is granted on the following conditions:

i) The applicant be released on a temporary bail for a period of two months from the date of the release on furnishing a surety of Rs. 1,00,000/=(Rupees One Lac only) with two sureties, each being for Rs. 50,000/-.

ii) That the applicant shall report to the DRI the name of the Hospital where he is admitted for a further treatment and if he is not admitted in the hospital and taking treatment

at home, he shall give the address of his home.

iii) He shall not leave Bombay unless permission from this Court is obtained. He shall surrender his passport, if any, to the DRI, before his temporary release on bail. He shall undertake to this Court by filing an appropriate affidavit that he will surrender on the due date to the Jail Authorities and will not indulge into any activities of the nature for which the prosecution is going on.

iv) That He shall not try through himself or any other persons to influence the other witnesses who are examined in this case.

v) The office of the DRI is further directed to keep approppriate surveillance on the actrivities being carried out by the applicant.

5. The application is disposed of in the above terms.

(S. R. SATHE, J.) (S. B. MHASE, J.)